

CSS INTERIM LICENSE AGREEMENT

This CSS INTERIM LICENSE AGREEMENT (this "Agreement") is made and entered into as of March 6 (the "Effective Date") by and between: (i) MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD., a Japanese corporation ("MEI"); and (ii) CompaCore, a California corporation ("Licensee"). This Agreement shall be effective as of the Effective Date provided that it is executed by the parties hereto.

RECITALS

- A. MEI and Toshiba (as defined below) have developed a Content Scramble System (as defined below) to provide reasonable security to the contents of DVD discs.
- B. MEI and Toshiba intend to license the Content Scramble System to a new independent entity who will administer such system.
- C. The independent entity is expected to be established by MEI, Toshiba and others in the DVD industry within several months.
- D. During the period from the Effective Date until the establishment and operation of the entity, Toshiba has granted to MEI a license to Toshiba's rights to the Content Scramble System and MEI will serve as the licensing agent for the Content Scramble System to grant licenses to third parties who desire to implement such system in DVD products.
- E. This Agreement: (i) is intended to be an interim agreement that is effective until the entity is established and makes available its standard license agreement; and (ii) sets forth the terms and conditions under which MEI will grant Licensee the right to implement the scramble system on its DVD products.

AGREEMENT

1. **DEFINITIONS.** In addition to the other capitalized terms used in this Agreement, the following terms shall have the meanings prescribed to them below:
 - 1.1 "**Affiliate**" shall mean, with respect to a designated party, any corporation, partnership or other entity that, directly or indirectly controls, is under common control with, or is controlled by, such designated party for so long as such control exists.
 - 1.2 "**Confidential Information**" shall mean Proprietary Information that is either marked "confidential" or "proprietary" when disclosed in written form or indicated as "confidential" when disclosed orally and confirmed in writing within thirty (30) days after such disclosure.
 - 1.3 "**CSS**" or "**Content Scramble System**" shall mean the Content Scramble System developed by MEI and Toshiba and designed to provide reasonable protection for the contents of DVD discs, as more fully described in the CSS Specifications.

1

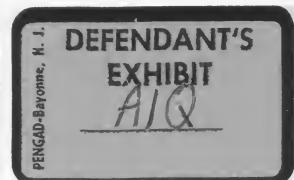
C:\My Documents\CSS-Interim\契約書類\Agreement_v2.doc

CONFIDENTIAL

1970年03月08日(土) 08:12 完成 松下電器製造 DVD企画部

完成

P003



DVD CCA 200937
HIGHLY CONFIDENTIAL
ATTORNEY EYES ONLY

~~FOR DISCUSSION PURPOSES ONLY~~

- 1.4 "CSS Licensee" shall mean any third party entity that enters into an agreement, containing substantially the same terms as those set forth in this Agreement, with MEI to the extent such agreement is valid and in effect.
- 1.5 "CSS Specifications" shall mean the documentation relating to CSS entitled "CSS Specifications" that MEI makes available to Licensee, as such documentation may be revised from time to time.
- 1.6 "Entity" shall mean the organization to be established by MEI, Toshiba and other DVD industry members that will administer CSS.
- 1.7 "End-User" shall mean any customer who purchases a CSS Compliant Product (as defined in Section 2.1(a)) for its own use and without a present intention to resell or market such CSS Compliant Product.
- 1.8 "Highly Confidential Information" shall mean Proprietary Information that is either marked "highly confidential information" when disclosed in written form or indicated as "highly confidential information" when disclosed orally and confirmed in writing within thirty (30) days after such disclosure. Any information constituting or relating to: (i) the algorithms used for scrambling, descrambling, authentication and key recovery, or (ii) master, disc, title or authentication keys shall be deemed Highly Confidential Information regardless of whether such information is marked as such.
- 1.9 "Licensed Rights" shall mean all Necessary Patents, copyrights, trade secret rights, and other proprietary rights in any jurisdiction, and all applications and registrations therefor in and to CSS (including the Proprietary Information), that MEI (during the term of this Agreement) owns or has the right to grant licenses of the scope granted herein without the agreement of, or requirement for payment (or provision of other consideration) to any person or entity.
- 1.10 "Necessary Patent" shall mean a patent that relates to CSS, pursuant to which a CSS Compliant Product cannot be manufactured, used or sold without: (a) infringing such patent; or (b) incorporating a design-around which has a substantial effect on performance, manufacturability or manufacturing cost. The design cost of designing-around shall not be considered in determining whether a patent is necessary.
- 1.11 "Proprietary Information" shall mean any and all information relating to CSS made available to Licensee directly or indirectly by MEI prior hereto or during the term of this Agreement including, without limitation, CSS Specifications, software, hardware, firmware, documentation, designs, flow charts, technical data, outlines, blueprints, notes, drawings, prototypes, templates, systems, manuals, know-how, processes and methods of operation.
- 1.12 "Resellers" shall mean any third party that acquires a CSS Compliant Product from Licensee for the purpose of distributing such CSS Compliant Product without

modifying or altering such CSS Compliant Product and without integrating such CSS Compliant Product into a higher level integrated product, provided however that the mere bundling of a CSS Compliant Product with one or more additional products shall not constitute integration, so long as such products are not physically interconnected.

1.13 "Toshiba" shall mean Toshiba Corporation.

2. **LICENSES FROM MEI.**

2.1 **Nonexclusive License.** Subject to the terms and conditions of this Agreement, MEI grants Licensee and its Affiliates a royalty-free, non-exclusive, nontransferable right, under the Licensed Rights:

- (a) to use and implement CSS to develop, manufacture and use DVD players, DVD drives, descramble chips, authentication chips, DVD decoder cards, DVD disc formatters and DVD discs, all of which are compliant with the CSS Specifications ("CSS Compliant Products"), and to practice any methods necessary for the manufacture or use of such products;
- (b) to have CSS Compliant Products or subparts thereof manufactured by third parties for Licensee; and
- (c) to distribute, offer to sell, sell, import and otherwise transfer: (i) DVD discs that are CSS Compliant Products to any person or entity; (ii) descramble chips and/or authentication chips that are CSS Compliant Products, directly or as part of DVD decoder cards that are CSS Compliant Products, only to other CSS Licensees who are contractually obligated to incorporate such products into DVD players and/or drives; (iii) DVD disc formatters that are CSS Compliant Products solely to CSS Licensees who manufacture DVD discs and who are further contractually obligated to use such DVD disc formatter solely to manufacture DVD discs for CSS Licensee; and (iv) DVD players and/or drives that are CSS Compliant Products solely to Resellers, End-Users or CSS Licensees.

2.2 **Copyright License.** Subject to the terms and conditions of this Agreement, including without limitation the confidentiality provisions of Section 5.2, for any copyrightable information included in CSS Specifications, MEI grants Licensee and its Affiliates a royalty-free, non-exclusive, nontransferable copyright license to use and reproduce CSS Specifications for internal purposes solely in connection with the implementation of CSS as permitted under Section 2.1 hereof.

2.3 **No Sublicense or Implied Licenses.** Licensee's licenses hereunder include no right to sublicense any rights, nor shall products or services provided by Licensee give rise to any implied licenses to third parties. Except as expressly provided in Sections 2.1 and 2.2, Licensee acknowledges and agrees that the licenses granted herein are

~~FOR DISCUSSION PURPOSES ONLY~~

the only licenses granted to Licensee, and that no other licenses are granted, expressly, by implication or estoppel, now or in the future. All rights not expressly granted to Licensee under this Agreement are reserved and retained by MEI.

3. MEMBERSHIP CATEGORIES AND ADMINISTRATION FEE.

- 3.1 Selection of Membership Categories. Upon the execution of this Agreement, Licensee shall select one or more membership categories set forth in Exhibit "A" (the "Membership Categories"). Licensee may from time to time add or delete Membership Categories upon providing MEI thirty (30) days prior written notice and payment of the Administration Fee (as defined below) for each additional Membership Category in accordance with Section 3.2 hereof.
- 3.2 Administration Fee. Concurrent with Licensee's selection of the Membership Categories pursuant to Section 3.1, Licensee shall pay MEI a nonrefundable sum of Yen 1,000,000 for each Membership Category selected by Licensee (the "Administration Fee"), which fee shall be used to offset the costs associated with MEI's administration of CSS. Licensee shall not be entitled to any refund in connection with any deletion of Membership Categories.

4. CSS SPECIFICATIONS.

- 4.1 Delivery of CSS Specifications. Upon Licensee's selection of one or more Membership Categories in accordance with Article 3, payment of appropriate Administration Fee(s) and after the appropriate approval by the Japanese Government, MEI shall distribute to Licensee such portions of Proprietary Information and/or CSS Specifications that are designated for distribution to the Membership Category(jes) selected by Licensee. In the event Licensee deletes any Membership Categories, Licensee shall within ten (10) days thereafter return such portions of Proprietary Information and/or CSS Specifications relevant to such deleted Membership Categories.
- 4.2 Compliance with CSS Specifications. Licensee shall comply with the CSS Specifications as may be amended by MEI from time to time. Each CSS Compliant Product shall comply with the version of the CSS Specifications which is in effect at the time such CSS Compliant Product is sold or otherwise transferred.

5. LICENSEE'S OBLIGATIONS.

- 5.1 Covenant Not to Sue. Licensee, on behalf of itself and its Affiliates, agrees not to assert their Necessary Patents against MEI, any MEI Affiliate, or any CSS Licensee or its Affiliates. This covenant not to sue shall apply only to activities which fall within the scope of Article 2.. This covenant will remain in effect for the life of any patent issued throughout the world with a first priority date prior to or during the term of this Agreement.

4

C:\My Documents\CSS-Licensing\第1章 第2回 Agreement_v2.doc

CONFIDENTIAL

5.2 Confidentiality.

- (a) Permitted Use. Licensee, on behalf of itself and its Affiliates, shall use Proprietary Information, Confidential Information and Highly Confidential Information solely for purposes of its own implementation of CSS in accordance with the terms of this Agreement and the CSS Specifications.
- (b) Highly Confidential Information. Licensee on behalf of itself and its Affiliates shall maintain the confidentiality of Highly Confidential Information in the following manner:
 - (i) Licensee and its Affiliates shall establish and maintain on Licensee's and/or Affiliate's premises a secure location in which any and all Highly Confidential Information shall be stored. Such secure location shall be accessible only by Authorized Employees (as defined below).
 - (ii) Licensee may only disseminate Highly Confidential Information to a total of six (6) full-time employees of Licensee or its Affiliates who have: (i) an absolute need to know such Highly Confidential Information in order to enable Licensee to implement the CSS in compliance with the CSS Specifications; and (ii) prior to the disclosure of such Highly Confidential Information, have: (a) been identified in writing by Licensee to MEI; and (b) read a copy of this Agreement, agreed to strictly abide by its terms and executed the acknowledgment attached as Exhibit "B" hereto (a copy of such executed acknowledgment to be sent to MEI) ("Authorized Employee"). Licensee may only substitute an Authorized Employee in the event of the death, permanent or long-term disability or resignation or termination of an existing Authorized Employee, or as otherwise approved in writing by MEI. Licensee shall inform MEI in writing prior to the substitution of any Authorized Employee.
 - (iii) Licensee shall not make any copies of any document containing Highly Confidential Information. Licensee may request MEI to provide Licensee with additional copies of such documents. MEI may, in its sole discretion, fulfill any such request.
- (c) Confidential Information. Licensee may disclose Confidential Information only to full-time employees of Licensee and/or its Affiliates who have a reasonable need to know and are bound by obligations of confidentiality sufficient to protect the Confidential Information in accordance with the terms of this Agreement. Licensee and/or its Affiliates shall use the same degree of care, but no less than a reasonable degree of care, to avoid unauthorized disclosure or use of Confidential Information as such party employs with respect to its comparably important confidential information.

- (d) Contact Person. Licensee shall designate a single contact person who shall receive all Confidential Information and Highly Confidential Information (the "Licensee Contact") disclosed by MEI. The initial Licensee Contact shall be the individual designated on Exhibit "C" hereto. Prior to the provision of any Highly Confidential Information to the Licensee Contact, such Licensee Contact shall have complied with all of his/her obligations under Section 5.2(b) hereof.
- (e) No Publication. Except as otherwise expressly provided in Sections 2.2 and 5.2, Licensee shall not publish, disseminate or otherwise disclose or make available Proprietary Information received hereunder to any person, firm or corporation without prior written consent of MEI.
- (f) Notification of Unauthorized Use or Disclosure. Licensee shall notify MEI in writing immediately upon discovery of any unauthorized use or disclosure of Proprietary Information, and will cooperate with the MEI in every reasonable way to regain possession of Proprietary Information and prevent its further unauthorized use or disclosure.
- (g) Prior Agreements. The obligations of this Section 5.2 shall apply to any and all disclosures of Proprietary Information to Licensee prior to the execution of this Agreement. This Agreement shall supersede any inconsistent provisions contained in any confidentiality agreement relating to CSS between the parties hereto including that certain Confidential Disclosure Agreement dated as of _____.

(h) Survival. The provisions of this Section 5.2 shall survive the expiration and/or termination of this Agreement.

- 5.3 Reverse Engineering. Licensee shall under no circumstances reverse engineer, decompile, disassemble or otherwise determine the operation of any Proprietary Information including, without limitation, any encryption/decryption or scrambling/descrambling algorithm or logic of CSS.
- 5.4 Export. Licensee will comply with all applicable rules and regulations of the United States, Japan and other countries and jurisdictions relating to the export or re-export of commodities, software and technical data insofar as they relate to the activities under this Agreement, and shall obtain an approval required under such rules and regulations whenever it is necessary for such export or re-export. Licensee agrees that commodities, software and technical data provided under this Agreement are subject to restrictions under the export control laws and regulations of the United States, Japan and other countries and jurisdictions, as applicable, including but not limited to the U.S. Export Administration Act and the U.S. Export Administration Regulations and the Japanese Foreign Exchange and Foreign Trade Control Law, and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export.
- 5.5 Intellectual Property Marking. Licensee shall mark all CSS Compliant Products with the proprietary markings (e.g. patent and copyright notices) reasonably requested by MEI. Licensee shall not remove, alter or obscure any proprietary markings on any materials, products or documentation provided by MEI to Licensee.
- 5.6 Breach by Employee. Any breach of this Agreement by an employee, contractor or consultant of Licensee or its Affiliates shall constitute a material breach of Licensee or its Affiliates hereunder.

6. TERM/TERMINATION.

6.1 Termination. This Agreement shall be effective upon the Effective Date and shall continue until earlier terminated in accordance with any of the following events:

- (a) Breach. If a party hereto defaults on any of its obligations under this Agreement (the "Defaulting Party"), the other party hereto (the "Non-Defaulting Party") shall have the right to terminate this Agreement by written notice describing the nature of the default, wherein such notice shall automatically result in termination unless within thirty (30) calendar days of receiving such written notice of such default, the Defaulting Party remedies the default (the "Cure Period"). Notwithstanding the foregoing, the Non-defaulting Party shall have the right to immediately terminate the Defaulting Party upon notice without any Cure Period in the event of the Defaulting Party's breach of Section 5.2 hereof.

- (b) Manufacture and Distribution of CSS Compliant Products. If in accordance with its rights under Article 2, Licensee fails to manufacture and commercially distribute or sell any CSS Compliant Products: (i) within six (6) month period after the execution of this CSS License Agreement; or (ii) during any twelve (12) month period during the term of this Agreement, then MEI may terminate this Agreement by providing Licensee thirty (30) calendar days prior written notice.
- (c) Upon Establishment of the Entity. In the event the Entity is formed, MEI may thereafter terminate this Agreement by sending Licensee thirty (30) days prior written notice thereof, and/or
- (d) Failure to Establish the Entity. In the event the Entity is not formed and operating as of June 1, 1997, MEI may thereafter terminate this Agreement by sending Licensee ninety (90) days prior written notice.

6.2 Effect of Termination.

- (a) Material Breach. If MEI terminates this Agreement pursuant to Section 6.1(a), all licenses granted by MEI to Licensee shall terminate.
- (b) Upon Establishment of Entity. If MEI terminates this Agreement pursuant to Section 6.1(c), all licenses granted by MEI to Licensee shall terminate; provided, however, that Licensee, for a period of ninety (90) days after such termination may distribute all CSS Compliant Products that have been produced or are in production as of the date of MEI's termination notice. In order for Licensee to continue providing CSS products, Licensee may have to obtain a license from the Entity, the terms of which may materially differ from the terms of this Agreement.
- (c) Upon Failure to Establish the Entity. If MEI terminates this Agreement pursuant to Sections 6.1(d), all licenses granted by MEI to Licensee shall terminate, provided, however, that Licensee, for a period of one (1) year after termination may distribute all CSS Compliant Products that have produced or are in production as of the date of MEI's termination notice.
- (d) Return of Materials. Within thirty (30) days after termination of this Agreement, Licensee will either: (i) return all Proprietary Information to MEI; or (ii) destroy all Proprietary Information in its possession and certify such destruction in writing to MEI, unless: (a) Licensee has then executed a license agreement for CSS with the Entity; and (b) Licensee sends written notice to MEI certifying that Licensee has entered into such agreement.

6.3 Survival. The terms of Sections 5.2, 5.3, 5.4, 8., 9. and 10. shall survive the termination of this Agreement.

~~FOR DISCUSSION PURPOSES ONLY~~

7. **OWNERSHIP.** All Proprietary Information and media containing Proprietary Information as provided by MEI to Licensee shall remain the property of MEI or its licensors. Except as provided in Article 2., this Agreement does not give Licensee any license or other right to the Proprietary Information.
8. **NO WARRANTY/LIMITATION OF DAMAGES.**
 - 8.1 ALL PROPRIETARY INFORMATION IS PROVIDED "AS IS." MEI MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION THAT MIGHT ARISE FROM THE PROPRIETARY INFORMATION OR LICENSEE'S IMPLEMENTATION OR ATTEMPTED IMPLEMENTATION OF SUCH INFORMATION OR CSS. MEI FURTHER DISCLAIMS ANY WARRANTY THAT CSS AND/OR THE CONTENTS OF THE PROPRIETARY INFORMATION, OR ANY PRODUCT IMPLEMENTING CSS OR SUCH PROPRIETARY INFORMATION, IN WHOLE OR IN PART, WILL BE FREE FROM INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.
 - 8.2 **Limitation of Liability.** IN NO EVENT SHALL MEI OR TOSHIBA, OR THEIR RESPECTIVE DIRECTOR, OFFICERS, OR EMPLOYEES BE LIABLE TO FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT, OR BASED ON MAKING, USING, SELLING OR IMPORTING ANY PRODUCTS OF LICENSEE THAT IMPLEMENT PROPRIETARY INFORMATION OR CSS, WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, PRODUCT LIABILITY OR OTHERWISE. IN PARTICULAR, AND WITHOUT LIMITATION, NEITHER MEI OR TOSHIBA, OR THEIR RESPECTIVE DIRECTOR, OFFICERS, OR EMPLOYEES SHALL BE LIABLE FOR ANY LOSS SUFFERED AS THE RESULT OF A BREACH OF SECURITY AFFECTING CSS, WHETHER OR NOT SUCH BREACH RESULTS FROM THE DELIBERATE, RECKLESS OR NEGLIGENT ACTS OF PERSON OR ENTITY. TO THE EXTENT THAT ANY COURT OF COMPETENT JURISDICTION RENDERS JUDGMENT AGAINST MEI NOTWITHSTANDING THE ABOVE LIMITATION, MEI'S TOTAL LIABILITY IN CONNECTION WITH THIS AGREEMENT OR CSS SHALL IN NO EVENT EXCEED THE AMOUNTS OF MONEY RECEIVED BY MEI FROM LICENSEE UNDER THIS AGREEMENT.
9. **REMEDIES.**
 - 9.1 **Indemnification.** Licensee shall indemnify and hold MEI, Toshiba and their respective Affiliates, each of their respective officers, directors and employees, harmless from and against any and all any claims, actions, suits, proceedings or litigations and any losses, deficiencies, damages, liabilities, costs and expenses

including without limitation, reasonable attorneys' fees and all related costs and expenses, to be paid or otherwise incurred in connection with the defense of any claim, action, suit, proceeding or litigation which result from: (i) any breach of any covenant, agreement, representation and warranties herein by Licensee, its employees, former employees, or agents; or (ii) Licensee's manufacture, sale or use of any CSS Compliant Products or any activities related to CSS.

- 9.2 **Equitable Relief.** Each party recognizes and agrees that in the event of a breach or threatened breach of its obligations concerning each party's rights under Sections 4.2 or 5. hereof, money damages alone would not adequately compensate the injured party, and therefore agrees that, in addition to all other remedies available to the injured party at law, in equity, by agreement or otherwise, the injured party shall be entitled to specific performance or other injunctive or equitable relief for the enforcement of any such obligation.
- 9.3 **Specific Remedies.** Licensee acknowledges that due to the critical importance of maintaining the integrity of CSS and the inability to calculate the damage to CSS users in the event of any breach of Section 5.2, MEI, in addition to any other remedies at law or in equity may recover liquidated damages for each breach from Licensee in the amount of \$1,000,000.

10. **MISCELLANEOUS.**

- 10.1 **Entire Agreement.** This Agreement and the CSS Specifications constitute the entire Agreement between the parties hereto and supersede all oral or written agreements, either entered prior to or contemporaneously with this Agreement. This Agreement may not be modified except by written agreement dated subsequent to the date of this Agreement and signed by both parties.
- 10.2 **Assignment.** The licenses granted hereunder are personal to Licensee, and Licensee shall not assign or transfer any rights or obligations under this Agreement without the prior written consent of MEI. Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties, their successors and permitted assigns.
- 10.3 **Presumptions.** In construing the terms of this Agreement, no presumption shall operate in either party's favor as a result of its counsel's role in drafting the terms or provisions hereof.
- 10.4 **GOVERNING LAW; JURISDICTION.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING THAT BODY OF LAW RELATING TO CONFLICTS OF LAW PRINCIPLES. IN CONNECTION WITH ANY LITIGATION BETWEEN THE PARTIES HERETO ARISING OUT OF OR RELATING TO THIS AGREEMENT, EACH PARTY HERETO IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION AND

~~FOR DISCUSSION PURPOSES ONLY~~

VENUE IN THE FEDERAL AND STATE COURTS LOCATED IN THE
COUNTY OF SANTA CLARA, CALIFORNIA.

- 10.5 Severability, Waiver. If any provision of this Agreement shall be held by a court of competent jurisdiction to be unenforceable, the remaining provisions shall remain in full force and effect. A waiver by either of the parties hereto of any of the covenants to be performed by the other party or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any covenant herein contained.

11

C:\My Documents\CCS-Internal 資料\Agreement_v2.doc

CONFIDENTIAL

~~FOR DISCUSSION PURPOSES ONLY~~

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MATSUSHITA ELECTRIC
INDUSTRIAL CO., LTD.:

Signature _____

Printed Name _____

Title _____

Date _____

Licensee:

Signature _____

GEORGE T. HABER

Printed Name _____

Exec. V. P.

Title _____

March 5. 97

Date _____

12

C:\My Documents\PCSS-Interview 質的審査協定書_v2.doc

CONFIDENTIAL